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STATE OF MICHIGAN  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
LANSING

KEITH W. COOLEY  
DIRECTOR

## STATE BOUNDARY COMMISSION

**DOCKET # 06-AR-1 GARFIELD TOWNSHIP/NEWAYGO**  
**7-DAY REBUTTAL MATERIAL**  
**OCTOBER 9, 2007 – OCTOBER 16, 2007**

**CORRESPONDENCE FROM:**

1. Laurie Kelly, Assistant City Attorney

**DATED/RECEIVED:**

October 17, 2007<sup>1</sup>

<sup>1</sup>Postmarked to meet the October 16, 2007 deadline date. Copy of letter also transmitted via fax and email on October 15, 2007.

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**DEPT. OF LABOR & ECONOMIC GROWTH**

**OCT 17 2007**

October 15, 2007

**STATE BOUNDARY COMMISSION**

**Via Facsimile and E-Mail**

State and Local Boundary Commission  
Department of Labor and Economic Growth  
Bureau of Construction Codes  
State of Michigan  
P. O. Box 30704  
Lansing, Michigan 48909

**Re: Rebuttal Evidence Submitted by the City of Newaygo  
Docket #06-AR-1**

Dear Commissioners:

Please accept this letter as the City of Newaygo's rebuttal evidence submitted in response to the 30-day material provided by Charles Benham. Mr. Benham's submittal includes a letter to the Commissioners dated May 25, 2007, and numerous attachments including proposed Act 425 agreements, maps, court documents, public notices, and handwritten documents.

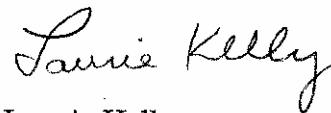
Mr. Benham devotes nearly one-half of his letter to recapping the history of various failed attempts to enter into Act 425 agreements regarding the subject property. Apparently, Mr. Benham is of the opinion that consistent resistance to an Act 425 agreement provides a strong basis for denying an annexation petition. In actuality, the reverse is true. Numerous Boundary Commission rulings support the premise that repeated attempts to reach an Act 425 agreement support the need for annexation. In other words, unsuccessful Act 425 agreements lay the foundation for annexation as a last resort solution for long-standing issues regarding land development.

We also note that the statutory criteria for annexation, Section 9 of Public Act 191 of 1968, is essentially prospective in nature. The Boundary Commission is asked to assess "probable, future urban growth," "probable future needs for services," and a "probable increase in taxes" in relation to "benefits expected to accrue." In light of the forward-looking determinations that the Boundary Commission is asked to make, Mr. Benham's recap of the history of the subject parcels is not productive. Indeed, it adds nothing to the record and has no role to play in the Boundary Commission's upcoming deliberations.

Mr. Benham also claims that he is "not interfering with the project." But it is indisputable that a riverfront project must be viewed in its totality, including future phases that will require city services. It is also indisputable that Garfield Township cannot offer such services, either now or in the future. Therefore, future project needs can not be met without annexation. Hence, in reality, Mr. Benham is attempting to interfere with the project as planned. This interference is particularly counterproductive in light of the fact that the City and Township have addressed this matter in a cooperative manner. Their collaborative efforts should be commended and not undermined by Mr. Benham's comments.

A careful reading of Mr. Benham's comments further reveals that his objections are not based on a fair assessment of what annexation means for the development of this area. Rather, he is motivated by a self-interested concern: "Our idea of economic development is not raising taxes 51%." Mr. Benham goes on to threaten detachment should annexation be granted. Clearly, the Boundary Commission's deliberations and decisions are not to be influenced by such threats. Despite Mr. Benham's resort to gamesmanship in order to protect his perceived self interests, the City of Newaygo trusts that this Commission's decisions will be based upon a full and fair deliberation of the statutory criteria which it is bound to follow.

Sincerely,



Laurie Kelly  
Assistant City Attorney

LJK/jc

cc: Ms. Christine Holmes  
Mr. Jon Schneider  
Mr. George Suchy, Jr.